

## REMARKS

Claims 1, 14, and 15 are amended to further clarify the invention. Claim 12 is canceled, and new claim 19 is added to depend from claim 1 and to claim the invention in alternative language.

Claims 1, 2, 4-10, and 14-19 are pending in the application. Reconsideration and allowance of the application are respectfully requested.

The Office Action fails to show that claim 4 fails to comply with the enablement requirement of 35 USC § 112, first paragraph. The rejection is respectfully traversed because the claims form part of the specification, and the recitation of the complete search process in originally filed claim 4 is sufficient to enable any one skilled in the art to make and use the invention. Specifically, the Office Action itself admits that “a simulated annealing process, which, as is known in the art, different than a complete search process.” In order to recognize that a simulated annealing process is different from a complete search process, one skilled in the art would need to understand both processes. Since one skilled in the art would understand a complete search process by name, the recitation of the process in the claim is itself sufficient enablement. Therefore, claim 4 complies with the enablement requirement, and the rejection should be withdrawn. Note that new claim 19 sets for the limitations of the simulated annealing process.

The Office Action does not establish that claims 1-3, 6, 7, 12, 14 and 15 are unpatentable under 35 USC §103(a) over “Pace” (U.S. Patent Publication No. 2003/0051236 to Pace et al.) in view of “Ouimet” (U.S. Patent Publication No. 2002/0107819 to Ouimet). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references and fails to provide a proper motivation for modifying the teachings of Pace with teachings of Ouimet.

Independent claims 1, 14 and 15 include limitations that both the optimization methods and objective functions are user-selectable and amended to clarify that at least two of the objective functions are interchangeable for use with one of the optimization methods. Thus, with both the optimization methods and objective functions being user selectable, the user can select different objective functions for

use with the same optimization method. These limitations are neither shown nor suggested by the Pace-Ouimet combination.

Pace teaches that different models that define some network optimization are run (e.g., server load-balancing, quality of service, and routing optimization). Ouimet allows the user to select several optimization methods (e.g., ant algorithms, genetic algorithms, simulated annealing, etc.) and to compare the results. Neither Pace nor Ouimet contain any apparent suggestion of allowing the user to select from both optimization methods and objective functions such that two of the objective functions are interchangeable with one of the optimization methods. Thus, the limitations of the claims are not shown to be taught by the prior art.

The alleged motivation for combining Ouimet with Pace does not support a *prima facie* case of obviousness. The alleged motivation states that "it would have been obvious ... to combine the teaching of Ouimet with Pace since Pace does not specifically disclose as to how these objective functions are able to calculate and determine where the asset allocations are to be distributed." This alleged motivation is unsupported by evidence that suggests any user selection of optimization methods as taught by Ouimet would be appropriate or beneficial to Pace. That is, Pace's approach for distributing software and data on different platforms and environments, and there is no evidence presented that Pace's approach is in any way unsuitable, nor is there any apparent evidence that Ouimet's optimization methods for using historical sales data to predict optimal prices is suitable for deploying software and data.

Claims 2, 6, and 7 depend from claim 1 and are not shown to be unpatentable for at least the reasons set forth above. Claims 3 and 12 are canceled and the rejection of those claims is moot.

The rejection of claims 1-3, 6, 7, 12, 14 and 15 over the Pace-Ouimet combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination and fails to provide a proper motivation for combining the references.

The Office Action does not establish that claims 5, 8-10, and 16-18 are unpatentable under 35 USC §103(a) over the Pace-Ouimet combination in view of "Hauser" (USPN 5,889,956 to Hauser et al.). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references and fails to provide a proper motivation for modifying the teachings of the Pace-Ouimet combination with teachings of Hauser.

The current Office Action does not respond to the traversal of this same rejection as set forth in the Amendment dated August 31, 2005. In the interests of advancing prosecution, an explanation is requested as to the deficiencies of the rejection as were raised in the previously filed amendment and response. For ease of reference, the arguments of the previous amendment and response are replicated in this paper.

Claim 5 depends from claim 1 and the Office Action does not show that the Pace-Hauser combination suggests all the limitations of the claim. For example, claim 5 includes further limitations of establishing one or more service-node relationships between selected pairs of the service nodes, wherein each service-node relationship has an associated transport demand attribute specifying a quantity of communication resources required for communication between the associated pair of service nodes. The cited teachings of Hauser do not correspond to these claim limitations as alleged.

The Office Action cites Hauser's FIG. 1 and relationship between programming department 22 and engineering department 16 as corresponding to these limitations. However, attempting to correspond the claim limitations to these teachings of Hauser shows that Hauser does not suggest all the claim limitations. Specifically, Hauser's teachings in no apparent manner suggest that the programming department 22 has a quantity of communication resources required for communication between the programming department and engineering department. Hauser's FIG. 1 shows levels of a company to which bandwidth is allocated (col. 3, l. 66 – col. 4, l. 19). Hauser's programming department and hardware department are part of the logical entity of the engineering department. Since the engineering department is a logical category, there is no apparent demand for a quantity of communication from the programming department to the engineering department.

The alleged motivation for combining Hauser with Pace is conclusory and improper. The alleged motivation states that "it would have been obvious ... to combine the teaching of Hauser with Pace since Pace discloses that load balancing models are well known in the art, this would motivate one of ordinary skill in the art for other methods of hierarchical resource management, eventually finding Hauser and its use of Maximum allowed values, and minimum guaranteed values (e.g. abstract)." No evidence is presented to support the alleged applicability or use of Hauser's hierarchical resource management to Pace's distribution of software and data on different network platforms. For example, no evidence is presented to indicate any deficiency or need of Pace that would be satisfied by a specific teaching of Hauser. Thus, the alleged motivation is improper.


As to claims 8-10 and 16-18, the cited teachings of Hauser do not suggest the claim limitations as explained above, and the alleged motivations for modifying Pace with teachings of Hauser are unsupported by evidence.

The rejection of claims 5, 8-10 and 16-18 over Pace should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination and fails to provide a proper motivation for modifying Pace with teachings of Hauser.

Withdrawal of the rejections and reconsideration of the claims are respectfully requested in view of the remarks set forth above. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (HPCO.061PA).

Respectfully submitted,

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